

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mercedes Bayon	Team: Team # 4	CCRB Case #: 201311028	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 11/15/2013 11:45 PM, Saturday, 11/16/2013	Location of Incident: 789 MacDonough Street	Precinct: 73	18 Mo. SOL 5/15/2015	EO SOL 5/15/2015	
Date/Time CV Reported Sat, 11/16/2013 4:30 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 11/22/2013 2:24 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Donaldson	08286	941671	PBBN SU
2. POF Salwa Jwayyed	26007	941981	PBBN SU
3. SGT Ramiro Ruiz	05320	939384	PBBN SU
4. POM Joseph Rodriguez	28899	931072	PBBN SU

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Roman Goris	14772	947042	PBBN SU

Officer(s)	Allegation	Investigator Recommendation
A.SGT Ramiro Ruiz	Abuse: SGT Ruiz unlawfully arrested § 87(2)(b)	
B.POM Anthony Donaldson	Force: At 789 MacDonough Street in Brooklyn, PO Anthony Donaldson pointed his gun at § 87(2)(b)	
C.POM Anthony Donaldson	Force: At 789 MacDonough Street in Brooklyn, PO Anthony Donaldson used physical force against § 87(2)(b)	
D.POM Anthony Donaldson	Force: At 789 MacDonough Street in Brooklyn, PO Anthony Donaldson used a chokehold against § 87(2)(b)	
E.POM Joseph Rodriguez	Abuse: At 789 MacDonough Street in Brooklyn and inside of the 73rd Precinct stationhouse, PO Joseph Rodriguez did not obtain medical treatment for § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		

### Case Summary

On November 16, 2013, § 87(2)(b) filed this complaint on behalf of his nephew, § 87(2)(b) with the Internal Affairs Bureau via the telephone (encl. 1-3). The CCRB received this complaint on November 22, 2013 via IAB log number 13-48644. § 87(2)(b) did not witness this incident (encl. 4-6).

On November 15, 2013, at approximately 11:45pm, PO Anthony Donaldson arrested § 87(2)(b) in the vicinity of 789 MacDonough Street in Brooklyn. The following allegations resulted:

- **Allegation A: Force:** At 789 MacDonough Street in Brooklyn, PO Anthony Donaldson pointed his gun at § 87(2)(b).  
§ 87(2)(g)
- **Allegation B: Force:** At 789 MacDonough Street in Brooklyn, PO Anthony Donaldson used physical force against § 87(2)(b).
- **Allegation C: Force:** At 789 MacDonough Street in Brooklyn, PO Anthony Donaldson used a chokehold against § 87(2)(b).
- **Allegation D: Abuse of Authority:** At 789 MacDonough Street in Brooklyn and inside of the 73<sup>rd</sup> Precinct stationhouse, PO Joseph Rodriguez did not obtain medical treatment for § 87(2)(b).  
§ 87(2)(g)
- **Allegation E: Abuse of Authority:** Sgt. Ramiro Ruiz authorized the arrest of § 87(2)(b).  
§ 87(2)(g)
- § 87(4-b) § 87(2)(g)

Upon Investigator Robert Hart's departure from the agency, this case was reassigned to Investigator Mercedes Bayon on June 16, 2014.

## Results of Investigation

### Civilian Statement

**Complainant:** § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was § 87(2)(b) old. He is a black male who stands 5'10" tall and weighs 132 pounds with black hair and brown eyes.* § 87(2)(b)

**Statement to Medical Personnel:**

On § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b). He stated as follows to medical personnel: "my whole face hurts after getting assaulted by a detective yesterday. People said I passed out." § 87(2)(b) further stated that he was thrown to the floor, kicked in the face, head, and body. He added that he did pass out and when he regained consciousness, he was bleeding from his nose with pain on his face, jaw, head, and back.

**CCRB Statement:** (encl. 7-12)

On December 2, 2013, § 87(2)(b) was interviewed at the CCRB. On November 15, 2013, sometime shortly before midnight, § 87(2)(b) left a sweet sixteen party on the southeast corner of Chauncey Street and Broadway in Brooklyn. § 87(2)(b) was wearing a red bubble coat, a black Nike sweater, and blue jeans. As he was leaving the party with a friend named § 87(2)(b) and another friend who § 87(2)(b) would not identify, they heard gunshots. The CCRB identified § 87(2)(b) as § 87(2)(b). § 87(2)(b) did not have any contact information for § 87(2)(b). § 87(2)(b) did not know who was shooting or where the gunshots actually came from, but he speculated that the gunshots were related to an altercation that had occurred earlier in the evening between unknown males. When § 87(2)(b) heard the gunshots, he ran away from Chauncey Street and Broadway with § 87(2)(b). § 87(2)(b)'s other friend ran in a different direction.

Numerous other individuals in the vicinity of Chauncey Street and Broadway also ran in response to the sound of gunshots. § 87(2)(b) and § 87(2)(b) ran up Chauncey Street and made a left onto Bushwick Avenue. § 87(2)(b) and § 87(2)(b) ran westbound on Bushwick Avenue for five or six blocks before they slowed down and noticed five men chasing after them. Two of these men were closer to § 87(2)(b) than the other three men.

§ 87(2)(b) did not immediately stop running when he saw the two men because they were not in uniform. One of the officers was a white male, which he could not further describe. Another officer, PO1 was a white male in plainclothes wearing a blue sweater and dark blue jeans, he had a black beard and mustache, about 6'1" or 6'2" tall, with a heavy build, he appeared to be in his late twenties to middle thirties. The CCRB identified PO1 as PO Anthony Donaldson. PO Donaldson said, "Police" and § 87(2)(b) stopped running and put his hands in the air. When § 87(2)(b) stopped he was at the northeast corner of Thomas Boyland Street and MacDonough Street in Brooklyn. PO Donaldson approached § 87(2)(b) with his gun drawn and pointed at § 87(2)(b)'s face and ordered § 87(2)(b) to get on the ground from about eight feet away.

PO Donaldson holstered his gun, and before § 87(2)(b) could get on the ground, PO Donaldson grabbed § 87(2)(b) by the front of his sweatshirt and punched him on his left eye. § 87(2)(b) fell to the ground as a result of the punch. § 87(2)(b) asked, "Why are you hitting me? I didn't do nothing. You hurting me." PO Donaldson responded, "Shut up, I know it was you. You

did it.” § 87(2)(b) repeated, “I didn’t do nothing” and PO Donaldson picked § 87(2)(b) up off the ground by his jacket and punched him on the left side of his face again causing § 87(2)(b) to fall onto his back. Once on the ground, PO Donaldson grabbed § 87(2)(b) by his throat with his right hand for about thirty seconds. § 87(2)(b) grabbed PO Donaldson’s arm to stop from being choked because he couldn’t breathe for about twenty seconds. PO Donaldson continued to punch § 87(2)(b) and stated, “You did it. You did it, shut up.” § 87(2)(b) did nothing to block PO Donaldson’s punches or try to escape. § 87(2)(b) was then turned over onto his stomach PO Donaldson stomped on § 87(2)(b)’s back and the back of his head and stated, “That’s the guy.” PO Donaldson stomped on § 87(2)(b)’s head twice and on his back three to four times.

§ 87(2)(b) was handcuffed by PO Donaldson and taken around the corner to a location on Thomas Boyland Street. § 87(2)(b) then observed that § 87(2)(b) was also in handcuffs, but § 87(2)(b) did not know who arrested § 87(2)(b). § 87(2)(b) noticed that there were about four to five officers in uniform and about seven officers in plainclothes. There were five to six other males in custody including § 87(2)(b), § 87(2)(b) and § 87(2)(b) were told to sit on the sidewalk with the other individuals in custody. § 87(2)(b) did not know any of the arrested individuals besides § 87(2)(b), § 87(2)(b) and the other individuals in custody remained on Thomas Boyland Street for about an hour. They were informed that they were waiting for a witness to come by and identify the shooter.

§ 87(2)(b) was transported to the 73<sup>rd</sup> Precinct station house in an unmarked black sedan by PO2, who § 87(2)(b) stated was his arresting officer. § 87(2)(b) did not know PO2’s name but described him as a Hispanic male in plainclothes with a camouflage jacket and an unshaved face, PO2 was taller than PO1 and had an average build. The CCRB identified PO2 as PO Joseph Rodriguez. Once in the vehicle, PO Rodriguez informed § 87(2)(b) that an individual, whose name § 87(2)(b) could not recall, had reported that § 87(2)(b) had a gun. § 87(2)(b) did not know the individual that PO Rodriguez referred to.

§ 87(2)(b) requested to be taken to the hospital by PO Rodriguez. PO Rodriguez responded, “Stay right here.” There were no officers or civilians in the area when § 87(2)(b) requested to be taken to the hospital. § 87(2)(b) was transported to the 73<sup>rd</sup> Precinct station house by PO Rodriguez and another officer, PO3, who he described as a white female in plainclothes, identified by the CCRB as PO Salwa Jawayyed. At the stationhouse, § 87(2)(b) was placed in a holding cell and again requested to be taken to the hospital by PO Rodriguez. PO Rodriguez told § 87(2)(b) “sit here, hold on” and informed § 87(2)(b) that he didn’t believe that § 87(2)(b) was involved in the shooting and that he was trying to get § 87(2)(b) released. There were no civilians or other officers present during this conversation between § 87(2)(b) and PO Rodriguez. Shortly before § 87(2)(b) was released, PO Donaldson and PO Rodriguez returned to the holding cell that § 87(2)(b) was in. PO Rodriguez informed § 87(2)(b) that he would be released soon and § 87(2)(b) replied, “I told you it wasn’t me” and PO Donaldson responded, “Shut up before I make you stay here.” § 87(2)(b) was not fingerprinted or photographed and estimated that he was in the holding cell for about two hours. § 87(2)(b) was released from the 73<sup>rd</sup> Precinct station house at 4:30am on November 16, 2013.

#### **Attempts to Contact Civilians** (encl. 39-48)

The undersigned investigator identified § 87(2)(b) and § 87(2)(b) from the command log as individuals who were arrested with § 87(2)(b). On July 21, 2014, a search of the Department of Correction Inmate Look-Up Website revealed that none of the above individuals were incarcerated.

On July 21, 2014, the undersigned investigator mailed § 87(2)(b) a please call letter and called him, but an automated message stated that the number was disconnected. On August 11,

2014, a second please call letter was mailed to his home address. A Lexis Nexis search for additional contact information for § 87(2)(b) returned negative results. None of the letters were returned to the CCRB by the United States Postal Service.

On July 21, 2014, the undersigned investigator mailed § 87(2)(b) a please call letter and requested a Lexis Nexis search for additional contact information, which returned negative results. A final please call letter was mailed on August 11, 2014. None of the letters were returned to the CCRB by the United States Postal Service.

On July 21, 2014, the undersigned investigator mailed § 87(2)(b) a please call letter and also requested a Lexis Nexis search for additional contact information, which returned on July 23, 2014 with a telephone number. On July 23, 2014, the undersigned investigator called § 87(2)(b) and an automated message stated that the telephone number was disconnected. On October 11, 2014, the undersigned investigator mailed § 87(2)(b) a please call letter and also called him and was able to leave a voicemail message. Between August 19, 2014 and September 3, 2014, the undersigned investigator called § 87(2)(b) and an automated message stated that his telephone number was disconnected. None of the letters were returned to the CCRB by the United States Postal Service.

Between July 21, 2014 and September 16, 2014, the undersigned investigator mailed § 87(2)(b) two please call letters and also called him five times two of which times a voicemail was left and the others there was no answer and the voicemail did not engage. None of the letters were returned to the CCRB by the United States Postal Service.

Between July 21, 2014 and September 30, 2014, the undersigned investigator mailed § 87(2)(b) three please call letters and called him five times; however, there was no answer and no voicemail engaged. None of the letters were returned to the CCRB by the United States Postal Service.

On October 8, 2014, the undersigned investigator searched the Department of Correction Inmate Look-Up Website, which revealed that none of the above individuals were incarcerated. The undersigned investigator called a telephone number identified on the NYPD SPRINT; however, while the individual recalled calling the police about shots fired, they did not have a recollection of the incident. They did not recall seeing officers on the scene, did not recall seeing officers interacting with any civilians, and did not recall seeing any individuals being arrested.

#### **NYPD Statements:**

##### **Subject Officer: PO ANTHONY DONALDSON**

- *At the time of the incident, PO Donaldson was § 87(2)(b) old. He is a white male who stands 5'10" tall and weighs 190 pounds with brown hair and brown eyes.*
- *On the date of the incident, PO Donaldson was assigned to Patrol Borough Brooklyn North anti-crime within the 73<sup>rd</sup> Precinct. He worked from 5:30pm until 2:05am in plainclothes in an unmarked police vehicle. He was partnered with Sgt. Ruiz and PO Goris.*

##### **Memo Book:** (encl. 14-16)

PO Donaldson's memo book states that at 11:31pm he picked-up shots fired opposite of 789 MacDonough Street and at 12:30am he had 6 under arrest at Bainbridge Street and Saratoga Avenue, § 87(2)(b) and § 87(2)(b) At 12:40am he was at the 73<sup>rd</sup> Precinct stationhouse.

##### **CCRB Statement:** (encl. 17-19)

On January 23, 2014, PO Anthony Donaldson was interviewed at the CCRB. On November 16, 2013, PO Donaldson was conducting patrol in an unmarked silver Impala with Sgt.

Ruiz and PO Goris. PO Goris was the operator of the vehicle, Sgt. Ruiz sat in the front passenger seat, and PO Donaldson was in the back seat. At approximately 11:31pm, PO Goris was approaching the intersection of Thomas Boyland Street and MacDonough Street in Brooklyn. Within two seconds of PO Goris driving around the corner, PO Donaldson heard multiple shots fired opposite 789 MacDonough Street in Brooklyn.

PO Donaldson exited the vehicle immediately and observed six males, including § 87(2)(b) who was wearing a red jacket, running towards him. PO Donaldson was about fifteen feet away from the group when he first observed them and PO Donaldson immediately ordered the group to stop. As § 87(2)(b) ran towards him, PO Donaldson observed that § 87(2)(b) gestured to his waistband with his hand. PO Donaldson interpreted this gesture as § 87(2)(b) having just placed a firearm in his waistband or being in the process of removing a firearm from his waistband. Because of this observed action, PO Donaldson initially focused his attention on § 87(2)(b). The group turned the corner and ran behind the police vehicle, passing PO Donaldson, and continuing down Thomas Boyland Street. PO Donaldson pursued the group on foot with Sgt. Ruiz following behind. During the pursuit, PO Donaldson had his shield displayed, verbally identified himself as a police officer several times, and ordered the individuals to stop running several times. PO Donaldson did not have his gun in his hand as he pursued the individuals. PO Donaldson did not recall drawing his gun at all during this incident or pointing his gun at § 87(2)(b). PO Donaldson did not see Sgt. Ruiz with his gun out, but noted that Sgt. Ruiz was behind him during the pursuit.

As the foot pursuit reached the intersection of Saratoga Avenue and Bainbridge Street in Brooklyn, all of the males except § 87(2)(b) stopped running. PO Donaldson believed they stopped running because he had caught up with them. § 87(2)(b) continued around the corner at the intersection of Saratoga Avenue and Bainbridge Street in Brooklyn. PO Donaldson pursued § 87(2)(b) and effected the stop by grabbing § 87(2)(b)'s arms and body from behind. He did not point his gun at § 87(2)(b) or have his gun drawn at this time either. Both PO Donaldson and § 87(2)(b) fell to the ground as a result of their forward momentum. PO Donaldson noted that he had control of § 87(2)(b)'s arms as they both hit the ground, and he was not sure what part of § 87(2)(b)'s body made contact with the ground as a result of the fall. PO Donaldson quickly placed § 87(2)(b) in handcuffs and searched § 87(2)(b) to make sure he did not have a firearm. § 87(2)(b) did not have a firearm on his person. After being handcuffed, § 87(2)(b) was compliant and PO Donaldson helped him to his feet. PO Donaldson did not recall striking § 87(2)(b) with his hand or fist. PO Donaldson denied that he struck § 87(2)(b) on his left eye, denied that he knocked § 87(2)(b) to the ground intentionally, denied that he kicked or stomped on § 87(2)(b) and denied that he grabbed § 87(2)(b) by the throat or choked him. Once on his feet, § 87(2)(b) was taken around the corner to sit with the other five individuals who were with Sgt. Ruiz and additional police officers whom PO Donaldson could not name, including some uniformed officers.

PO Donaldson left the area after handing § 87(2)(b) off to Sgt. Ruiz and went back to the location of the shooting opposite 789 MacDonough Street to canvass the area with PO Goris. PO Donaldson located a weapon opposite 789 MacDonough Street in Brooklyn as well as multiple spent shell casings. PO Donaldson located surveillance footage that identified who had fired the weapon. From viewing this footage, PO Donaldson learned that § 87(2)(b) had not fired the weapon. An additional weapon connected to this incident was later found by a different officer at a location on Saratoga Avenue in Brooklyn.

PO Donaldson did see § 87(2)(b) at the 73<sup>rd</sup> Precinct stationhouse and his arrest was eventually voided. PO Donaldson acknowledged that he had a conversation with § 87(2)(b) inside the 73<sup>rd</sup> Precinct stationhouse and stated that he may have told § 87(2)(b) that he would be released shortly. PO Donaldson could not recall what was specifically said during this

conversation or how long it lasted, PO Donaldson did not remember where in the stationhouse this conversation occurred or if any other officers were present. PO Donaldson could not remember what he was wearing on the date of the incident, but he believed that he has never worn a camouflage jacket to work. § 87(2)(b) did not ask PO Donaldson for medical attention at any time and PO Donaldson did not hear § 87(2)(b) ask any officer for medical attention. At the 73<sup>rd</sup> Precinct stationhouse, PO Donaldson noticed that § 87(2)(b)'s face was a little swollen. PO Donaldson believed that § 87(2)(b) suffered this injury as a result of falling to the ground when he was apprehended by PO Donaldson. PO Donaldson noted that there was one white female officer on the anti-crime team at the time of the incident who was present, PO Salwa Jwayyed.

**Subject Officer: SGT RAMIRO RUIZ**

- *At the time of the incident, Sgt. Ruiz was § 87(2)(b) old. He is a Hispanic male who stands 6'0" tall and weighs 250 pounds with black hair and brown eyes.*
- *On the date of the incident, Sgt. Ruiz was assigned as the anti-crime supervisor. He was assigned to Patrol Borough North Anti-Crime within the confines of the 73<sup>rd</sup> Precinct. He was in plainclothes assigned to an unmarked vehicle with PO Goris and PO Donaldson.*

**Memo Book**

According to Sgt. Ruiz's memo book, at 11:40pm, shots were fired at Boyland Street and Bainbridge Street. At 12:40am, he noted that six individuals were under arrest for investigation and added that a firearm was recovered at Saratoga Avenue and Bainbridge Street.

**CCRB Testimony**

Sgt. Ruiz was interviewed at the CCRB on February 4, 2015. On November 15, 2013, at approximately 11:40pm, Sgt. Ruiz was travelling in an unmarked vehicle with PO Goris, the operator, and PO Donaldson. Sgt. Ruiz could not remember where he was sitting in the vehicle. As they approached the corner of Bainbridge Street, Sgt. Ruiz heard multiple shots, though he was unsure how many shots he heard. Sgt. Ruiz stated that the shots seemed "very close," within "feet" of where he and the officers were in their vehicle. Sgt. Ruiz approximated that the shots occurred within "20 to 50 feet" of where he was. The vehicle Sgt. Ruiz was in then pulled up to the corner of Bainbridge Street. Sgt. Ruiz saw smoke from the gun shots, as well as a large group of individuals running away from the area where he heard the gun shots. The individuals were running toward the direction of his vehicle.

At that point, Sgt. Ruiz and PO Donaldson exited the vehicle. He believed that PO Goris remained in the vehicle. When Sgt. Ruiz exited the vehicle, the group was approximately "two car lengths" away from him, running in his direction. Sgt. Ruiz identified himself as a police officer and directed the individuals to stop.

A black male wearing a "red bubble coat", known to the investigation to be § 87(2)(b) caught Sgt. Ruiz's attention. As § 87(2)(b) was running, he appeared to be "jamming" something in the front waistband of his pants by "shoving" his hands in the front of his waistband. Sgt. Ruiz never saw the § 87(2)(b)'s hands. As § 87(2)(b) ran past Sgt. Ruiz, his hands remained in his waistband. § 87(2)(b)'s actions, compounded with the fact that shots had just been fired in the area, led Sgt. Ruiz to believe that § 87(2)(b) was armed. Sgt. Ruiz was shown a photo of § 87(2)(b) and Sgt. Ruiz stated that he believed that he was the individual wearing the "red bubble coat", though he wasn't "100%" sure. In the photo shown to Sgt. Ruiz, § 87(2)(b) was wearing a red jacket.

Sgt. Ruiz and PO Donaldson then pursued the group of individuals on foot. PO Goris did not exit the vehicle. Sgt. Ruiz yelled to PO Donaldson, "Red coat. Red coat. Get the red coat." Sgt. Ruiz was concerned with "going after everybody," but § 87(2)(b) was his "main target." Sgt.

Ruiz stated that his purpose for pursuing the other individuals was because they were in the immediate vicinity of shots being fired and were running from a crime scene. Sgt. Ruiz's intent at that point was to conduct an investigation. PO Donaldson was running in front of Sgt. Ruiz. In pursuit of the individuals, the officers made a right turn on MacDonough Street. During the pursuit, Sgt. Ruiz did not hear any communication or descriptions of individuals over the radio in regards to the shots fired.

After approximately three blocks, PO Donaldson and Sgt. Ruiz caught up with the group of individuals. PO Donaldson was approximately "half of a block" ahead of Sgt. Ruiz. Sgt. Ruiz saw PO Donaldson draw his gun and point it at the group, though Sgt. Ruiz did not recall if he pointed it at any specific individual. Everyone in the group dropped to the ground of their own accord, except for § 87(2)(b) who remained standing and continued running. Sgt. Ruiz could not recall if the group of individuals stopped before PO Donaldson drew his gun or afterwards. Sgt. Ruiz could also not recall if PO Donaldson was giving verbal directions as he was running. PO Donaldson continued forward to apprehend § 87(2)(b) while Sgt. Ruiz caught up and watched the group of individuals on the ground. PO Donaldson then "tackled" § 87(2)(b) from behind approximately 10 to 15 feet away from the group on the ground. When PO Donaldson tackled § 87(2)(b) his gun was already holstered, though Sgt. Ruiz was not sure when PO Donaldson holstered it. PO Donaldson fell to the ground with § 87(2)(b). Sgt. Ruiz did not recall if § 87(2)(b) stopped or put his hands up prior to being tackled by PO Donaldson. Sgt. Ruiz did not recall if PO Donaldson identified himself to § 87(2)(b) specifically as a police officer, though Sgt. Ruiz believed that the individuals involved in the incident knew that he and PO Donaldson were police officers. Sgt. Ruiz did not see PO Donaldson grab § 87(2)(b) by his shirt and punch him in his face. Sgt. Ruiz also did not see PO Donaldson place his hands around § 87(2)(b)'s neck or put § 87(2)(b) in a chokehold. Sgt. Ruiz did not see PO Donaldson pick § 87(2)(b) up, throw him on the ground, and punch him.

§ 87(2)(b) was then handcuffed. Sgt. Ruiz described the handcuffing of § 87(2)(b) as "brief" and did not recall any struggle, though he later stated that there was a "brief struggle." Sgt. Ruiz stated that § 87(2)(b) was not allowing PO Donaldson to handcuff him by flailing his arms while he was on the ground, though Sgt. Ruiz could not remember exactly what § 87(2)(b) was doing. Sgt. Ruiz stated that PO Donaldson used the minimum amount of force necessary to overcome § 87(2)(b)'s resistance by being "on top" of § 87(2)(b) trying to gain control of his hands. Sgt. Ruiz did not see PO Donaldson strike § 87(2)(b) anywhere on his body to gain compliance of his hands. Sgt. Ruiz did not know how long the struggle ensued, but stated that it was "brief." § 87(2)(b) was eventually frisked for weapons, but nothing was recovered from his person.

While § 87(2)(b) was being handcuffed, Sgt. Ruiz was watching the individuals on the ground. Sgt. Ruiz told the individuals to "stay on the ground." He did not recall if he made any other statements. At this point, the individuals were "compliant" with Sgt. Ruiz's commands. The individuals were eventually placed into handcuffs. Sgt. Ruiz stated that the individuals were on the ground for "not too long" before they were handcuffed. Sgt. Ruiz did handcuff some of the individuals himself. Sgt. Ruiz did not recall if any of the individuals resisted being handcuffed. The individuals were handcuffed because they were placed in handcuffs to determine their involvement in the shooting, given that they were in close proximity to the shots fired. Sgt. Ruiz did not hear § 87(2)(b) tell PO Donaldson that he didn't do anything and that PO Donaldson was hurting him. Sgt. Ruiz did not hear PO Donaldson tell § 87(2)(b) "We know it was you. You did it. Shut up" or "Shut up. I know it was you." Sgt. Ruiz did not observe PO Donaldson stomp on § 87(2)(b)'s head or neck.

At some point after the group of individuals had been placed in handcuffs, Sgt. Ruiz was informed that a gun had been recovered on the scene near where the shots were fired. Sgt. Ruiz did not recall who informed him of that information. At the time that Sgt. Ruiz was informed that



a gun had been recovered, the individuals were still handcuffed, but had already been frisked. Sgt. Ruiz stated that the individuals were brought back to the stationhouse to determine who the gun that was recovered on the scene belonged to.

At this point, additional officers had arrived at the scene. Sgt. Ruiz did not recall specifically who arrived, but recalled that PO Jwayyed arrived on the scene. PO Jwayyed's partner at the time was PO Joseph Rodriguez. PO Goris eventually arrived on the scene as well, though Sgt. Ruiz did not recall exactly when he arrived. When § 87(2)(b) was stopped by PO Donaldson, the other officers were not present at the scene. After being placed into handcuffs, § 87(2)(b) and the other individuals were transported to the 73<sup>rd</sup> Precinct stationhouse. Sgt. Ruiz did not recall how long the individuals were "on the corner" before being brought back to the stationhouse. Sgt. Ruiz did not personally transport any of the individuals back to stationhouse and did not observe any injuries on any of the individuals. Sgt. Ruiz did not remember § 87(2)(b) complain of any injuries. Sgt. Ruiz did not remember who transported § 87(2)(b) to the stationhouse, but he did recall that § 87(2)(b) was transported in a marked police van by uniformed officers.

Sgt. Ruiz did not recall § 87(2)(b) asking to be taken to the hospital at the scene of the arrest. § 87(2)(b) did not express to Sgt. Ruiz that he needed medical attention. None of the other officers expressed to Sgt. Ruiz that § 87(2)(b) wanted medical attention. After the incident, while still on the scene of the arrest, Sgt. Ruiz went to the location where the shots were fired and saw video footage from a building in the area where the shots were fired. Sgt. Ruiz was unsure if the individuals were in transport or they were "still waiting at the corner" when he went to review the video. Sgt. Ruiz did not recall who he went with to view the video. The video showed two males exchanging shots, twenty to thirty feet from each other. In the video, Sgt. Ruiz's car is visible and can be seen "pulling up" as the shots fired occurred. The video was obtained from a "corner building" on Bainbridge Street, "where the shots fired occurred." From this video, Sgt. Ruiz was able to make out one of the six males in the group that had been handcuffed and was seen in the video placing a gun under a car. The individual was a black male wearing a black jacket.

After viewing the video, Sgt. Ruiz went back to the stationhouse. Sgt. Ruiz arrived at the stationhouse at the same time as the group of males under arrest stemming from the incident, though Sgt. Ruiz did not travel back with them. At the stationhouse, after determining the male that was involved with the shooting, the other individuals arrests were voided and released, while one individual was processed "for the firearm." Sgt. Ruiz stated that even though the individuals that were released were not being charged with a crime, they were brought back to the stationhouse and "processed" because the final determination of who would be charged was not made until they were at the stationhouse, and it is procedure for officers to process the arrests and then void them. After concluding his investigation, while at the stationhouse, Sgt. Ruiz told the individuals that they were going to be released, but he did not have a specific conversation with § 87(2)(b). Sgt. Ruiz did not hear PO Donaldson speaking with § 87(2)(b) and did not hear § 87(2)(b) tell PO Donaldson, "It wasn't me." Sgt. Ruiz did not remember any of the individuals arguing back saying, "I told you it wasn't me." Sgt. Ruiz did not tell § 87(2)(b) "Shut up before I make you stay here" nor did he hear anyone tell him that. Sgt. Ruiz did not recall how long the individuals were in the stationhouse before they were released. At no point during the incident did Sgt. Ruiz draw his gun.

**Witness Officer: PO ROMAN GORIS**

- *At the time of the incident, PO Goris was § 87(2)(b) old. He is a Hispanic male who stands 5'11" tall and weighs 205 pounds with black hair and brown eyes.*
- *PO Goris was assigned to Brooklyn North Anti-Crime within the confines of the 73<sup>rd</sup> Precinct. He worked with Sgt. Ruiz and PO Donaldson in plainclothes in an unmarked police vehicle. He worked from 5:30pm until 2:05am.*

**Memo Book:** (encl. 20-21)

PO Goris' memo book stated that at 11:30pm he heard shots fired opposite of 789 MacDonough Street. At 12:30am, there were 6 individuals under arrest by PO Donaldson with regard to the shots fired.

**CCRB Statement:** (encl. 23-24)

On July 22, 2014, PO Goris was interviewed at the CCRB. On November 15, 2013, at approximately 11:30pm, PO Goris was the operator in an unmarked police vehicle. Sgt. Ruiz and PO Donaldson were the passengers. PO Goris was driving in the vicinity of MacDonough Street when he heard shots fired. PO Goris pulled over and double parked near 789 MacDonough Street. Immediately after he pulled over, Sgt. Ruiz and PO Donaldson exited the vehicle. As soon as Sgt. Ruiz and PO Donaldson exited the vehicle, PO Goris lost sight of them because they walked off in an unknown direction. PO Goris remained in the vehicle and observed what appeared to be someone hiding between two vehicles that were about 2 car lengths away from where PO Goris was parked. PO Goris drove his vehicle up to where he thought he observed someone hiding and determined that there was no one hiding between the two vehicles.

PO Goris then exited his vehicle and began to radio over to his partners, Sgt. Ruiz and PO Donaldson, to find out where they were, but he was not receiving any response from them. While PO Goris was standing outside of his vehicle, he observed that people were running away from the location as a result of the shots that were fired. PO Goris did not stop anyone, speak with any civilians, or conduct any investigation regarding the shots being fired at this time. He was concerned with locating Sgt. Ruiz and PO Donaldson. He stated that there were other officers present on the scene, but he did not recall who they were or what they were doing. He could not estimate how long he was inside of his vehicle before he exited or how long he was outside of his vehicle. At some point he got back into his vehicle and was able to locate Sgt. Ruiz and PO Donaldson. PO Goris did not recall if someone told him where PO Donaldson and Sgt. Ruiz were, if he found them on his own, or if one of them provided their location over the radio. PO Goris did not recall the exact location where he found PO Donaldson and Sgt. Ruiz.

However, he recalled that when he arrived at the location where PO Donaldson and Sgt. Ruiz were, he observed 6 individuals who were in handcuffs and seated on the sidewalk. There were other officers on the scene, but he did not know who they were. He did not observe any of the officers with their guns drawn or pointed. He did not recall if the handcuffed individuals were males or females. During the interview, the undersigned investigator presented PO Goris with a color photograph of § 87(2)(b) but he did not recognize him. He did not see any of the individuals being handcuffed. He did not recall seeing any officers interact with any of the handcuffed individuals nor did he interact with any of them. He did not see any individuals who were injured or asking for medical attention. He did not see any officers use force against any of the handcuffed individuals nor did he use any physical force against any of the individuals. PO Goris did not observe any of the males on the ground. He did not see any officer punch anyone in the face or any area of the body. He did not hear any officer state to any individual "You did it" or any conversation where an individual was being accused of being responsible for the shots being fired. He did not see any officer step on any of the individuals.

PO Goris did not speak with any officers that were on the scene. He did not recall how long he was present at the location and could not explain what exactly was occurring while he was present. He did not recall any of the individual's specific demeanors, but explained that it did not appear that there were any issues and it appeared that everything was under control. Thus, PO Goris left the location in his police vehicle and went back to 789 MacDonough Street to look for evidence. He went back by himself leaving PO Donaldson and Sgt. Ruiz at the location where the

6 individuals were under arrest. PO Goris explained that he looked around for shell casings and evidence from the shots that were fired, but he did not recover anything. He explained that there were a lot of officers in the area due to the shots being fired, but he did not recall who or what they were specifically doing. He did not recall how long he looked for evidence. He stated that he left the location after looking for evidence, but did not recall if he went back to where Sgt. Ruiz and PO Donaldson were or if he went directly back to the stationhouse.

At some point, PO Goris did go back to the stationhouse. He did not transport any individuals back to the stationhouse. When he arrived at the stationhouse, he observed that Sgt. Ruiz and PO Donaldson were present. There were prisoners in the holding cell whom were arrested in connection with an investigation, but he did not know who they specifically were and did not interact with them. When he arrived, the individuals were already in the holding cells. He never went into the holding cell area. He did not recall if any individuals needed medical attention and did not hear anyone request medical attention. He was not made aware of what occurred leading to the arrest of any of the individuals aside from them being arrested in connection to the shots fired. He was not sure if any evidence was ever collected from the scene.

**Subject Officer: PO SALWA JAWAYEDD**

- *At the time of the incident, PO Jawayedd was § 87(2)(b) old. She is a white female who stands 5'6" tall and weighs 145 pounds with brown hair and brown eyes.*
- *On the date of the incident, PO Jawayedd worked with PO Joseph Rodriguez assigned to PBBN anti-crime within the confines of the 73<sup>rd</sup> Precinct. She worked from 5:30pm until 2:08am in plainclothes in an unmarked vehicle.*

**Memo Book:** (encl. 25-26)

PO Jawayedd did not have any memo book entries regarding this incident.

**CCRB Statement:** (encl. 27-28))

On February 27, 2014, PO Salwa Jwayyed was interviewed at the CCRB. On November 15, 2013, PO Jwayyed and PO Rodriguez were conducting patrol in the 73<sup>rd</sup> Precinct in an unmarked vehicle. PO Donaldson was also working anti-crime in the 73<sup>rd</sup> Precinct, but was assigned to a different vehicle. PO Jwayyed did not know who PO Donaldson was working with on the incident date. Sometime before 11:45pm, as their vehicle approached MacDonough Street from a street which PO Jwayyed could not recall, PO Jwayyed heard shots fired. PO Jwayyed believed that PO Donaldson's vehicle was behind hers at the time she heard the shots fired and believed that the shots had come from about a block away from her location, somewhere on MacDonough Street in Brooklyn. After hearing the shots, PO Jwayyed saw about fifty individuals in the area running away from the sound of the gunfire. Of these fifty, PO Jwayyed recognized five who were later stopped by PO Donaldson. PO Jwayyed explained that there were numerous individuals in the area because a party had been in progress before the shooting. PO Jwayyed described the scene as chaotic.

After hearing the gunfire, PO Jwayyed's vehicle turned and travelled on MacDonough Street towards where the gunfire had come from. PO Donaldson's vehicle passed her vehicle and continued straight ahead. As PO Jwayyed's vehicle travelled to the next corner on MacDonough Street, she heard over the radio that PO Donaldson was in a foot pursuit. PO Jwayyed lost sight of PO Donaldson and the rest of his team. During the pursuit, PO Donaldson's radio transmissions were unclear as to what his location was. About five minutes after hearing the gunshots, PO Donaldson came over the radio and reported that he had five individuals stopped at an intersection which PO Jwayyed could not recall. PO Jwayyed noted that the intersection was about two blocks away from where the shooting occurred. PO Jwayyed and PO Rodriguez

immediately proceeded to the location where PO Jwayyed observed five stopped male individuals. PO Jwayyed could not remember if any of them were handcuffed. PO Jwayyed estimated that there were four officers at the location besides PO Donaldson, none of whom she could name or describe. There may have been uniformed officers at the location. PO Jwayyed could not recall if she spoke to PO Donaldson at the location but she might have asked him if he was okay. PO Jwayyed recognized the five stopped individuals as part of the group of fifty that she had seen running when she first heard the gunfire. PO Jwayyed did not recognize § 87(2)(b) when shown a photograph of him. PO Jwayyed did not see PO Donaldson or any officer strike § 87(2)(b) or use any force against § 87(2)(b). PO Jwayyed did not see PO Donaldson or any other officer point a gun at § 87(2)(b). PO Jwayyed did not see PO Donaldson or any other officer choke § 87(2)(b). PO Jwayyed did not hear any civilian ask for medical attention from any officer, and did not observe if any of the individuals had injuries.

PO Jwayyed did not stay at the location with the stopped individuals for very long, rather she proceeded to the location of the shooting. PO Jwayyed did not know if PO Rodriguez stayed with PO Donaldson or came with her to the location of the shooting. PO Jwayyed went to the location of the shooting to look for shell casings. PO Jwayyed did locate shell casings, and they were vouchered by another officer. PO Jwayyed went back to the stationhouse after the shell casings were secured. PO Jwayyed knew that a weapon was recovered but did not know by who or when. PO Jwayyed did not know at what time she arrived at the stationhouse, but did not communicate with any of the stopped individuals in the stationhouse or transport any civilians to the stationhouse. PO Jwayyed knew that all five individuals were brought to the stationhouse, and thought that some of them were released from the stationhouse. PO Jwayyed thought that surveillance footage was recovered from the location of the shooting, but PO Jwayyed did not know which officer had secured that footage.

**Subject Officer: PO JOSEPH RODRIGUEZ**

- *At the time of the incident, PO Rodriguez was § 87(2)(b) old. He is a Hispanic male who stands 5'11" tall and weighs 195 pounds with brown hair and brown eyes. PO Rodriguez is clean shaven and tan skin.*
- *On the date of the incident, PO Rodriguez was assigned to Brooklyn North Anti-Crime. He worked in plainclothes assigned to an unmarked patrol vehicle. He was working with the Brooklyn North Anti-Crime team, but he did not recall who his specific partner was.*

**Memo Book:** (encl. 29-30)

PO Rodriguez did not have any memo book entries regarding this incident.

**CCRB Statement:** (encl. 31-32)

PO Rodriguez was interviewed at the CCRB on November 5, 2014. PO Rodriguez did not have a recollection of this incident. He also did not recall who his partner was on the date of incident. He was shown a copy of the Brooklyn North Anti-Crime Team roll call which showed that his tour was extended until 5:25am, but he did not recall why his tour was extended. After reviewing the roll call he did not recall who he was partnered with and did not recall if he worked with PO Jwayyed. However, he was familiar with PO Jwayyed. He did not recall being at the incident location and was not familiar with the specific address of 789 MacDonough Street. His memo book only noted that he was present for duty at 5:30pm, at 6:30pm he began patrol, and at 2:05am he ended his tour. He was shown a photograph of § 87(2)(b) but he did not recognize him.

PO Rodriguez was also provided with a summary of this incident, but this did not assist in his recollection. He did not recall responding to any incidents involving a shooting, did not recall any

foot pursuits of any black males, and did not recall transporting any prisoners back to the stationhouse. He did not recall any one asking for medical attention or having any involvement in stopping any males on this date. He did not recall assisting PO Donaldson or Sgt. Ruiz in stopping any males or having any involvement in the investigating of a shooting. PO Rodriguez stated that at the time of the incident, he was the only officer with the surname Rodriguez. He stated that he has been referred to as “JRod,” but it is not a nickname of his. He does not know any other officers nicknamed, “JRod.” He denied observing or involvement in the allegations.

### **Officers Not Interviewed**

§ 87(2)(b), § 87(2)(g)

### **Medical Records**

On § 87(2)(b), at approximately § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b). His medical records indicate that he had bruising and swelling to the left side of his face.

### **NYPD Documents**

#### **NYPD SPRINT (encl. 33-35)**

The NYPD SPRINT indicates that a male called regarding a shooting at 762 MacDonough Street and that the gun was thrown on the right side of the street near a construction site on MacDonough Street. At approximately 11:53pm, the male caller stated that there is someone looking for the gun. At 11:55pm, the male caller stated that the police were looking for the gun in the correct location. The male caller stated that someone picked up the gun and was walking down the block. The male caller did not provide a physical description of the person who picked up the gun, but he stated that two male blacks had thrown the gun on the right side of the street. The male caller ended his call at 12:10am. The SPRINT indicated that at 2:09am there were 6 under and the borough crime sergeant requested a van to their location.

#### **Roll Call (encl. 36)**

According to the roll call for the Patrol Borough Brooklyn North Anti-Crime Unit, Sgt. Ruiz, PO Donaldson, PO Jwayyed, PO Goris, and PO Rodriguez were on duty.

#### **Command Log (encl. 37-38)**

The arrests of § 87(2)(b) and § 87(2)(b) were logged in the command log at 12:40am. All of their arrests were voided and they were released at 4:10am with the exception of § 87(2)(b) who was transported to Brooklyn Central Booking. All of their physical and mental conditions were noted as apparently normal. The arresting officer for all arrests was PO Donaldson.

### **Summons/Arrest for Incident and Disposition**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Status of Civil Proceedings**

- A Notice of Claim inquiry has been requested and will be included in the case file upon receipt.

### **Civilian Criminal History**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]

### **Civilians CCRB History** (encl. 5-6)

- This is the first CCRB complaint filed by [§ 87(2)(b)] and that [§ 87(2)(b)] has been party to.

### **Subject Officers CCRB History** (encl. 1a-4)

- PO Donaldson has been a member of the service for 8 years and there are no substantiated CCRB allegations against him.
- PO Jawayyed has been a member of the service for 8 years and there are no substantiated CCRB allegations against her.
- PO Rodriguez has been a member of the service for 12 years and there are no substantiated CCRB allegations against him.
- Sgt. Ruiz has been a member of service for 12 years and there are no substantiated CCRB allegations against him.

### **Conclusion**

#### **Identification of Subject Officers**

[§ 87(2)(b)] stated that the first officer he encountered was a white male in plainclothes who stood approximately 6'1"-6'2" tall with a heavy build, which is generally consistent with the physical appearance of PO Donaldson. He alleged that this officer used force against him, placed him in a chokehold, pointed his firearm at him, and handcuffed him. PO Donaldson confirmed that he did pursue [§ 87(2)(b)] stop him and handcuffed him. [§ 87(2)(g)]  
[REDACTED]

[§ 87(2)(b)] stated that a Hispanic male officer in plainclothes with an average body build refused to provide him with medical attention. In addition, [§ 87(2)(b)] added that the Hispanic male officer was partnered with a white female officer in plainclothes and they both transported him to the stationhouse. According to officer testimony and the PBBN AC roll call, PO Jwayyed was the only white female officer on the anti-crime team and who was involved in this incident and she identified her partner as "Jrod." PO Rodriguez is a Hispanic male officer, was the only officer at the time assigned to PBBN AC with the surname Rodriguez, and he confirmed that he had been addressed as "Jrod." [§ 87(2)(g)]

### **Investigative Findings and Recommendations**

#### **Allegation A: Force: At 789 MacDonough Street in Brooklyn, PO Anthony Donaldson pointed his gun at [§ 87(2)(b)]**

[§ 87(2)(b)] alleged that when PO Donaldson approached him, PO Donaldson had his gun drawn and pointed at [§ 87(2)(b)]'s face. Conversely, PO Donaldson testified that he did not have his gun in his hand while in pursuit of [§ 87(2)(b)] and that he did not recall pointing his gun at [§ 87(2)(b)] at any time during the incident. Both [§ 87(2)(b)] and PO Donaldson testified that there were shots fired at the location, which is supported by the NYPD SPRINT, and that several individuals including [§ 87(2)(b)] fled the location. According to PO Donaldson, he immediately focused on [§ 87(2)(b)] because he observed [§ 87(2)(b)] reaching for his waistband and interpreted

this motion as § 87(2)(b) placing a firearm in his waistband or removing one; however, § 87(2)(b) made no mention of this during his CCRB statement.

As noted in *PD v. Gliner*, OATH Index No. 955/00 (2000), “an officer can draw his firearm so long as he has a reasonable fear for his own or another’s personal safety.” The case further stated that the reasonableness of the officer’s actions given the totality of the surrounding circumstances must be assessed when determining whether drawing or pointing a firearm constitute misconduct, and that broad discretion and due deference is given to an officer’s judgment at the time and scene of the incident (encl. A-S).

§ 87(2)(g)

**Allegation B: Force: At 789 MacDonough Street in Brooklyn, PO Anthony Donaldson used physical force against § 87(2)(b)**

**Allegation C: Force: At 789 MacDonough Street in Brooklyn, PO Anthony Donaldson used a chokehold against § 87(2)(b)**

§ 87(2)(g)

§ 87(2)(b) stated that PO Donaldson directed him to get on the ground; however, as he was getting on the ground, PO Donaldson grabbed him by the shirt and punched him in the left eye resulting in § 87(2)(b) falling to the ground. § 87(2)(b) inquired as to why PO Donaldson was using the above force and PO Donaldson told § 87(2)(b) that he “did it” and § 87(2)(b) denied that he did anything. In response, PO Donaldson allegedly lifted § 87(2)(b) off of the ground, punched him on the left side of his face again and § 87(2)(b) fell onto his back. PO Donaldson then grabbed § 87(2)(b) by the throat for approximately 20 seconds during which time § 87(2)(b) stated that he could not breathe. PO Donaldson then stomped on § 87(2)(b)’s back three to four times and on his head twice after which he was handcuffed.

PO Donaldson testified that he pursued a group of males who ran after shots were fired. As he pursued the males, they all came to a stop except for § 87(2)(b) at which time he continued in pursuit of § 87(2)(b). PO Donaldson testified that he grabbed § 87(2)(b) by his arms to stop him from running and the forward momentum led them to fall to the ground after which he handcuffed § 87(2)(b) and took him to where the other males were stopped around the corner. PO Donaldson stated that he did not punch § 87(2)(b) on the left eye, knock him to the ground, kick him, stomp on him, grab him by the throat or choked him. According to PO Donaldson he was the only officer who pursued § 87(2)(b) after the males stopped and he then brought him back around the corner.

Based on § 87(2)(b)’s medical records, he informed medical personnel that he was thrown to the ground and also kicked about his body. The records further indicate that he had bruising and swelling to the left side of his face, but sustained no other injuries. During PO Donaldson’s interview he denied using the force as alleged by § 87(2)(b) but admitted he observed § 87(2)(b) had swelling to his face while they were at the stationhouse, which he attributed to § 87(2)(b) falling to the ground during his apprehension. Additionally, all officer testimony reflect that they did not observe the above force used against § 87(2)(b). PO Donaldson stated that Sgt. Ruiz had been pursuing the group as well; however, Sgt. Ruiz is out long term sick due to illness and was unable for interview by the CCRB as a potential witness. Additionally, none of the persons arrested with § 87(2)(b) cooperated with the investigation. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation D: Abuse of Authority: At 789 MacDonough Street in Brooklyn and inside of the 73<sup>rd</sup> Precinct stationhouse, PO Joseph Rodriguez did not obtain medical treatment for**

§ 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) stated that he was placed in an unmarked vehicle for transport to the 73<sup>rd</sup> Precinct stationhouse by PO Rodriguez. He stated that once they were inside of the vehicle he asked PO Rodriguez to take him to the hospital and PO Rodriguez responded, “stay right here.” PO Rodriguez and PO Jwayyed then transported him to the stationhouse where he was placed in a holding cell and he asked PO Rodriguez again to take him to the hospital, but PO Rodriguez responded that he did not believe he was involved in the shooting and was trying to have him released. According to § 87(2)(b) there were no officers or civilians present for this conversation. § 87(2)(b) did not receive medical treatment until he was released and went on his own. During PO Rodriguez’s interview, he testified that he had no recollection of this incident. All other officers did not recall § 87(2)(b) asking for medical attention.

§ 87(2)(g)

**Allegation E: Abuse of Authority: Sgt. Ramiro Ruiz authorized the arrest of § 87(2)(b)**

It is undisputed that shots were fired in the vicinity of 789 MacDonough Street and that § 87(2)(b) was taken back to the 73<sup>rd</sup> Precinct stationhouse where he was charged with Criminal Possession of a Weapon in the Second Degree.

According to N.Y. Penal Law 265.03 “a person is guilty of Criminal Possession of a Weapon in the Second Degree when he possesses a machine-gun or loaded firearm with intent to use the same unlawfully against another” (encl. T).

According to all statements, when the shots were fired, a group of six black males fled the scene, one of which was § 87(2)(b). According to PO Donaldson and Sgt. Ruiz, they observed § 87(2)(b) reach for his waistband as he ran. Sgt. Ruiz and PO Donaldson pursued § 87(2)(b) and the other males who were then stopped and searched. No firearm was recovered on § 87(2)(b)’s person as a result of the search. However, § 87(2)(b) was taken back to the 73<sup>rd</sup> Precinct stationhouse for an investigation where § 87(2)(b) was charged with criminal possession of a weapon in the second degree. Although Sgt. Ruiz testified that he obtained information that a firearm had been recovered from the location where § 87(2)(b) and the males had first been observed fleeing from, there was never any indication that § 87(2)(b) had been in possession of said firearm.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)



§ 87(4-b), § 87(2)(g)

[Redacted text block]

Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date